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7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF NEVADA  
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10 TIM GRIMALDI,

11 Petitioner,

12 vs.

13 BRIAN WILLIAMS, *et al.*,

14 Respondents.  
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) 2:10-cv-01992-RLH-GWF  
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**ORDER**

16 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254,  
17 by a Nevada state prisoner.

18 Petitioner has filed a motion to proceed *in forma pauperis*. (ECF No. 1). Based on the  
19 information concerning petitioner's financial status, the Court finds that the motion to proceed *in*  
20 *forma pauperis* should be granted.

21 The Court further finds that the petition shall be served on respondents. A petition for federal  
22 habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to  
23 include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon  
24 that claim. *See* 28 U.S.C. §2254(b) (successive petitions).

25 Petitioner has filed a motion for the appointment of counsel. (ECF No. 2). There is no  
26 constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v.*

1 *Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The  
2 decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th  
3 Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.),  
4 *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the  
5 case are such that denial of counsel would amount to a denial of due process, and where the  
6 petitioner is a person of such limited education as to be incapable of fairly presenting his claims. *See*  
7 *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The petition  
8 on file in this action is well-written and sufficiently clear in presenting the issues that petitioner  
9 wishes to bring. The issues in this case are not complex. It does not appear that counsel is justified  
10 in this instance. The motion shall be denied.


11 **IT IS THEREFORE ORDERED** that the application to proceed *in forma pauperis* (ECF  
12 No. 1) is **GRANTED**. The Clerk **SHALL FILE** the petition for a writ of habeas corpus.

13 **IT IS FURTHER ORDERED** that petitioner's motion for the appointment of counsel (ECF  
14 No. 2) is **DENIED**.

15 **IT IS FURTHER ORDERED** that the Clerk **SHALL ELECTRONICALLY SERVE** the  
16 petition upon the respondents.

17 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from entry of  
18 this order within which to answer, or otherwise respond to, the petition. In their answer or other  
19 response, respondents shall address any claims presented by petitioner in his petition. Respondents  
20 shall raise all potential affirmative defenses in the initial responsive pleading, including lack of  
21 exhaustion and procedural default. **Successive motions to dismiss will not be entertained**. If an  
22 answer is filed, respondents shall comply with the requirements of Rule 5 of the Rules Governing  
23 Proceedings in the United States District Courts under 28 U.S.C. §2254. If an answer is filed,  
24 petitioner shall have **forty-five (45) days** from the date of service of the answer to file a reply.

Dated this 9<sup>th</sup> day of March, 2011.

  
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 ROGER L. HUNT  
 Chief United States District Judge